

MINUTES

**MONTANA SENATE
58th LEGISLATURE - REGULAR SESSION**

COMMITTEE ON AGRICULTURE, LIVESTOCK AND IRRIGATION

Call to Order: By **CHAIRMAN KEITH BALES**, on February 21, 2003 at
3 P.M., in Room 102 Capitol.

ROLL CALL

Members Present:

Sen. Keith Bales, Chairman (R)
Sen. Dale Mahlum, Vice Chairman (R)
Sen. Ken (Kim) Hansen (D)
Sen. Sam Kitzenberg (R)
Sen. Walter McNutt (R)
Sen. Linda Nelson (D)
Sen. Corey Stapleton (R)
Sen. Mike Taylor (R)
Sen. Joseph (Joe) Tropila (D)

Members Excused: Sen. Gerald Pease (D)

Members Absent: None.

Staff Present: Jennifer Stephens, Committee Secretary
Doug Sternberg, Legislative Branch

Please Note. These are summary minutes. Testimony and discussion
are paraphrased and condensed.

Committee Business Summary:

Hearing & Date Posted: SB 375, 2/17/2003; HB 381,
2/19/2003
Executive Action:

HEARING ON SB 375

Sponsor: SEN. JIM ELLIOTT, SD 36, TROUT CREEK

Proponents: J. Gail Patton, Sanders County and Lake Co.
Jamie Seeley, Hot Springs
Buzz Seeley, Hot Springs

Opponents: Rex Lange, Hot Springs
Gary Hills, Lone Pine
Gus Lange, Hot Springs
Frank Crowley, Attorney, L&S Tire
Tina Lange, Hot Springs

Opening Statement by Sponsor:

SEN. JIM ELLIOTT, SD 36, TROUT CREEK, explained that SB 375 had to do with baled tires being used as fences. He said he was opposed to baled tires being used as fences because they are ugly as well as dangerous. He explained that the baled tires are flammable and attract large amounts of mosquitoes. The bill would call for all baled tires to be covered in concrete or similar material so that when the wires disintegrate, the bales will not explode. He added that the bill would make it illegal for baled tires to be placed underwater. He ended by saying that the best place to put bales tires is underground.

Proponents' Testimony:

J. Gail Patton, Sanders County and Lake Co. said that he is negatively affected by baled tires. He explained that in the Hot Springs area, there has been a number of tire bales that have blown apart, leaving tires scattered everywhere. He agreed that a baled tire fence is ugly and dangerous. He said that taxpayers shouldn't have to pay the money to have baled tires removed. He suggested the alternative of giving the tires to the local landfill.

Jamie Seeley, Hot Springs, explained that her home and business are surrounded by baled tire fencing. She said the states surrounding Montana do not allow the use of baled tires. Because of this, she believes that tire companies are dumping the baled tires in Montana due to the state not having a law against it. She said that people have attempted to sue her because of her disapproval of baled tire usage. She said she has concerns of disease due to the mosquitoes that nest in the baled tires where she lives. She urged the committee to ban baled tire usage.

Buzz Seeley, Hot Springs, concurred with **Ms. Seeley's** testimony. He added that tire companies shouldn't get away with dumping old tires in Montana.

Opponents' Testimony:

Rex Lange, Hot Springs, said he is **Ms. Seeley's** neighbor and it is his baled tire fence that she is so opposed to. He said that before he put the fence up, he checked with many state agencies to make sure that his fence would be legal. He said all of the agencies he talked to said the fence was legal. He said he used the bales to keep his livestock in and to keep his neighbor's livestock out. He added that the baled tires also support his plants and provide privacy.

Gary Hills, Lone Pine, opposed the bill because his livelihood comes from trucking baled tires into the state. He doesn't think the tires pose any threat to the environment. He added that he had seen baled tires used in other states.

Gus Lange, Hot Springs, explained that he uses baled tires in his Junior Agricultural Association projects. He said that without the use of baled tires, he cannot build his fences or create a windbreak for his cattle.

Frank Crowley, Attorney, L&S Tire, said he works as an attorney for L&S tire. He explained the concerns of the tire company and distributed information to the committee, **EXHIBIT (ags39a01)**.

{Tape: 1; Side: B}

Tina Lange, Hot Springs, submitted written testimony, **EXHIBIT (ags39a02)**.

Questions from Committee Members and Responses:

SEN. MIKE TAYLOR asked **Jamie Seeley** how long she has lived at her residence. She said she has lived at her residence, which is also her place of business, for 8 years. **SEN. TAYLOR** further asked when the baled tires started appearing. She said the tires went up approximately a year ago. **SEN. TAYLOR** asked **Ms. Seeley** how many acres she owned. She said 125 acres. He asked if her side of the fence was being kept up. She said she takes care of the fence to the right of her property.

SEN. TAYLOR asked **Mr. Lange** how many acres he owned. He said approximately 120 acres. **SEN. TAYLOR** asked **Mr. Lange** if he would be upset if someone put something ugly up next to his property.

Mr. Lange said he had the fence up because his neighbor abuses his children. He also said he needs the fence in order to keep out his neighbor's livestock. He said he doesn't think his fence is a nuisance to anyone else's property. **SEN. TAYLOR** asked **Mr. Lange** how much a bundle of baled tires cost. **Mr. Lange** said he buys them for \$20 a bundle. **SEN. TAYLOR** asked if the baled tires could be used somewhere else other than outside his neighbor's window. **Mr. Lange** said yes. He added that the tire bales have a lifetime guarantee from the manufacturer.

SEN. DALE MAHLUM asked **Mr. Lange** if dirt could be used to cover up the bales so they aren't such an eyesore. **Mr. Lange** said that would be very costly.

SEN. COREY STAPLETON asked **Mr. Crowley** how long he has been affiliated with L&S Tire Company. **Mr. Crowley** said he had been working with the company for about a week. **SEN. STAPLETON** further asked **Mr. Crowley** if he had a problem with an out-of-state company using Montana as a waste depository. **Mr. Crowley** said baled tire use is an environmentally beneficial project because the tires are being used instead of going into landfills.

{Tape: 2; Side: A}

SEN. KEITH BALES asked **Mr. Patton** if there is some way that the dispute could be resolved on the local level. **Mr. Patton** said there were some options, none of which have worked.

SEN. BALES asked **John Dilliard, Department of Environmental Quality**, if he would comment on the use of baled tires in the state. **Mr. Dilliard** said he was not aware of his department being contacted before **Mr. Lange** put up his baled tire fence. He said he first became aware of the issue when **Ms. Seeley** lodged a complaint. **SEN. BALES** further asked if there was any law that regulates the placement of tires on private property. **Mr. Dilliard** said that Montana statute holds that something that has an economic value is not a waste. Because of this definition, he said that baled tires cannot be considered a waste.

SEN. BALES asked **Mr. Crowley** how the tire bales are banded and the life expectancy of each bale. **Mr. Crowley** said the tires are bound together with metal. He added that the life expectancy is 20 years or more.

SEN. STAPLETON asked **Mr. Crowley** why the local landfill was not being used to dispose of the tires. **Mr. Crowley** explained that the landfill rates had gone up. He added that L&S thinks the tires could be used in a more environmentally beneficial manner.

SEN. TAYLOR asked **Mr. Crowley** how many states do not allow baled tires. **Mr. Crowley** said he didn't know but would report back to the committee with the answer. He knows that some states are limiting tires in landfills, which is creating more of a demand for alternative uses.

SEN. MAHLUM asked **Mr. Hill** how many tires he trucks into the state. **Mr. Hill** said he hauls 26 bales that weigh about 2,000 a piece. **SEN. MAHLUM** further asked what would happen if Montana discontinued the use of baled tires. **Mr. Hill** said he heard the tires might be shipped to Oregon.

SEN. TAYLOR asked **Ms. Lange** how much money she has spent on baled tires. She said she has spent up to \$15,000.

Closing by Sponsor:

SEN. JIM ELLIOTT, SD 36, TROUT CREEK, summarized the bill and closed.

HEARING ON SB 381

Sponsor: **SEN. BOB KEENAN, SD 38, BIGFORK**

Proponents: **Jack Paulsen,**
Tom Harrison, Attorney

Opponents: **Sarah Carlson, MT Conservation Districts**

Opening Statement by Sponsor:

SEN. BOB KEENAN, SD 38, BIGFORK, said SB 381 comes as a result of a situation that happened in Bigfork that has state-wide implications. The bill would clarify arbitration rules under 3-10 law.

Proponents' Testimony:

Jack Paulsen, Bigfork, submitted written testimony,
EXHIBIT(ags39a03).

{Tape: 2; Side: B}

Tom Harrison, Attorney, explained that he was the attorney who aided **Mr. Paulsen** through his ordeal with the 3-10 law. He reiterated the points that **Mr. Paulsen** discussed. He also offered to answer any questions.

Opponents' Testimony:

Sarah Carlson, MT Conservation Districts, submitted written testimony, **EXHIBIT**(ags39a04).

Informational Witnesses:

Ray Beck, Department of Natural Resources and Conservation, said he was available to answer any questions.

Questions from Committee Members and Responses:

SEN. STAPLETON asked **Mr. Paulsen** what would have happened differently if he was able to go through the court system for arbitration. **Mr. Paulsen** said he could have taken his case to court and had his issue resolved under the Lake Shore Protect Act.

{Tape: 3; Side: A}

SEN. BALES asked **Mr. Beck** what the recourse is for a person trying to get a 3-10 permit after arbitration. **Mr. Beck** said it is up to the individual. **SEN. BALES** further asked on what grounds a person could take their case to court. **Mr. Beck** said he could not answer the question. **SEN. BALES** asked **Mr. Harrison** to answer the question. **Mr. Harrison** explained the criteria for civil court review and emphasized that the 4 exceptions for review were very limited.

Closing by Sponsor:

SEN. BOB KEENAN, SD 38, BIGFORK, emphasized that individuals should always have the option to go to court. He further summarized the bill and closed.

ADJOURNMENT

Adjournment: 6 P.M.

SEN. KEITH BALES, Chairman

JENNIFER STEPHENS, Secretary

KB/JS

EXHIBIT (ags39aad)